IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10882 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PERFECT EQUIPMENTS

Versus

MAHADEVBHAI M PATEL

Appearance:

1. Special Civil Application No. 10882 of 1993

MR KM PATEL for Petitioner No. 1-8

MR NR SHAHANI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 27/08/2003

ORAL JUDGEMENT

Heard learned advocate Mr. K.M.Patel for the petitioners and learned advocate Mr. N.R.Shahani appearing on behalf of the respondent.

2. In the present petition, the petitioners have challenged the recovery order passed by the Labour Court, Ahmedabad in Recovery Application No. 1500 of 1992 dated 14.7.1993 wherein the Labour Court has granted amount of overtime wages in favour of the respondent amounting to Rs.30,903.17 paise with simple interest upon the said amount which was required to be paid within 30 days from the date of receiving the copy of the order passed by the Labour Court with cost of Rs.1000.00 awarded by the Labour Court. At the time of entertaining the petition by this Court, this Court has passed following order on 2.11.1993:

> "Rule. Mr. N.R.Shahani, learned counsel waives service of Rule for the respondent.
>
> Interim relief on condition that the petitioners deposit the entire awarded amount in this Court within four weeks from today. On such deposit, workmen will be entitled to withdraw one half of the amount without security and other half of the amount on security to the satisfaction of the Registrar."

3. Affidavit-in-reply is filed by the respondent. Learned advocate Mr. N.R.Shahani appearing on behalf of the respondent has submitted that respondent has withdrawn one half amount but the other half of the amount could not be withdrawn because of his not able to give security to the Registrar of this Court. Therefore, learned advocate Mr. Shahani has submitted that one half amount is lying with the Registrar of this Court.

4. In view of this factual situation, when the matter has been taken for hearing, both the learned advocates and respective parties have arrived at consensus between them and inviting the orders to the effect that one half amount which is lying with the Registrar of this Court may be permitted to be withdrawn by the petitioner, for that respondent has no objection and this being considered to be a final settlement between the parties in respect of the order passed by the Labour Court in Recovery Application in question. Learned advocate Mr. Shahani has submitted that respondent workman Mahadevbhai Maganbhai Patel is personally remain present who has been identified by learned advocate Mr. Shahani and having the instructions from the respondent, Mr. Shahani has made this statement before this Court.

5. In view of the consensus agreement arrived at between the parties, it is directed to the Registrar of this Court to pay one half amount with accrued interest which is lying with him in respect to Special Civil Application No. 10882 of 1993 to the petitioner by Account Payee cheque in the matter of petitioner and to hand over the cheque to the learned advocate Mr. K.M.Patel who is appearing on behalf of the petitioner within one week from the date of receiving the copy of the said order.

6. In view of this, the order passed by the Labour Court, Ahmedabad in Recovery Application No. 1500 of 1992 dated 14.7.1993 is modified to that extent and satisfied to that extent between the parties. It is further clarified that one half amount which has already been received by the workman shall not be required to be recovered. This order is passed with clear understanding and arrangement between the parties. Rule is made absolute accordingly.

(H.K.Rathod,J)

Jayanti*